

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 284**

**Introduced by Assembly Member Chavez**

February 5, 2003

---

---

~~An act to amend Section 10168.7 of the Insurance Code, relating to life insurance. An act to amend Sections 10168.1 and 10168.2 of, and to add Sections 10168.92 and 10168.11 to, the Insurance Code, relating to annuities.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 284, as amended, Chavez. ~~Life insurance: statement of benefits~~ *Deferred annuities: nonforfeiture.*

*Existing law provides that, with certain exceptions, no annuity contract shall be delivered in this state unless it provides, among other things, (1) that upon cessation of payments under the contract, the company will grant a paid-up annuity benefit of a specified value and (2) in the case of certain contracts, that the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit in a specified amount. Existing law requires the company to reserve the right to defer the payment of this cash surrender benefit for a period of 6 months after demand therefor.*

*This bill would require that these annuity contracts also provide that the company shall grant the paid-up annuity benefit upon the written request of the contract owner.*

*The bill would eliminate the requirement applicable to certain contracts that a company reserve the right to defer the payment of the cash surrender benefit for a period of 6 months, and would instead allow*

*the company to reserve that right after making written request and receiving written approval of the commissioner, as specified. The bill would allow payment of the cash surrender benefit to be deferred for a period not to exceed 6 months.*

*Existing law provides for different calculations of minimum nonforfeiture amounts for contracts involving flexible considerations and those involving a single consideration, as specified. Existing law sets certain minimums upon the considerations used to determine the minimum nonforfeiture amount of a contract.*

*This bill would provide for a uniform method of calculating minimum nonforfeiture amounts under these contracts. It would modify the interest rate applicable to accumulations under these contracts, the amounts by which those accumulations may be decreased, and the minimum amount of considerations used to determine the minimum nonforfeiture amount, as specified.*

*The bill would allow the Insurance Commissioner to adopt regulations to implement these provisions and to adjust the calculation of minimum nonforfeiture amounts for certain other contracts.*

*The bill would specify that its provisions shall become operative on January 1, 2006, but that a company may elect to apply them to individual annuity contracts on and after the effective date, and before the operative date, of these provisions.*

~~Existing law requires that any life insurance contract that does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments include a statement in a prominent place in the contract that those benefits are not provided.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. Section 10168.7 of the Insurance Code is~~
- 2 *SECTION 1. Section 10168.1 of the Insurance Code is*
- 3 *amended to read:*
- 4 10168.1. In the case of contracts issued on or after the
- 5 operative date of this article as defined in Section 10168.10, no
- 6 contract of annuity, except as stated in Section 10168, shall be



delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract.

(a) That upon cessation of payment of considerations under a contract, *or upon the written request of the contract owner*, the company ~~will~~ *shall* grant a paid-up annuity benefit on a plan stipulated in the contract of ~~such~~ *the* value ~~as is~~ specified in Sections 10168.3, 10168.4, 10168.5, 10168.6, and 10168.8.

(b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company ~~will~~ *shall* pay in lieu of any paid-up annuity benefit a cash surrender benefit ~~of such~~ *in the* amount ~~as is~~ specified in Sections 10168.3, 10168.4, 10168.6, and 10168.8. The company ~~shall~~ *may, after making written request and receiving the written approval of the commissioner,* reserve the right to defer the payment of ~~such~~ *the* cash surrender benefit for a period ~~of~~ *not to exceed* six months after demand therefor with surrender of the contract. *The request shall address the necessity and equitability to all policyholders of the deferral.*

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender, or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of ~~such~~ *those* benefits.

(d) A statement that any paid-up annuity, cash surrender, or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered, and an explanation of the manner in which ~~such~~ *the* benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract, or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to

1 ~~such~~ that period would be less than twenty dollars (\$20) monthly,  
2 the company may at its option terminate ~~such~~ the contract by  
3 payment in cash of the then present value of ~~such~~ that portion of  
4 the paid-up annuity benefit, calculated on the basis of the mortality  
5 table, if any, and the interest rate specified in the contract for  
6 determining the paid-up annuity benefit, and by ~~such~~ that payment  
7 shall be relieved of any further obligation under ~~such~~ the contract.

8 *SEC. 2. Section 10168.2 of the Insurance Code is amended to*  
9 *read:*

10 10168.2. The minimum values as specified in Sections  
11 10168.3, 10168.4, 10168.5, 10168.6, and 10168.8 of any paid-up  
12 annuity, cash surrender, or death benefits available under an  
13 annuity contract shall be based upon minimum nonforfeiture  
14 amounts as defined in this section.

15 (a) ~~With respect to contracts providing for flexible~~  
16 ~~considerations, the~~ (1) The minimum nonforfeiture amount at  
17 any time at or prior to the commencement of any annuity payments  
18 shall be equal to an accumulation up to ~~such time at a rate of~~  
19 ~~interest of 3 percent per annum of percentages~~ that time, at the  
20 rates of interest indicated in subdivision (b), of the net  
21 considerations (as hereinafter defined) paid prior to ~~such~~ that  
22 time, decreased by the sum of ~~(i) any~~ all of the following:

23 (A) Any prior withdrawals from or partial surrenders of the  
24 contract, accumulated at ~~a rate of interest of 3 percent per annum~~  
25 ~~and (ii) the amount~~ the rates of interest indicated in subdivision  
26 (b).

27 (B) An annual contract charge of fifty dollars (\$50),  
28 accumulated at the rates of interest indicated in subdivision (b).

29 (C) Any premium tax paid by the company for the contract,  
30 accumulated at the rates of interest indicated in subdivision (b).  
31 However, the minimum nonforfeiture amount may not be  
32 decreased by this amount if the premium tax is subsequently  
33 credited back to the payor.

34 (D) The amount of any indebtedness to the company on the  
35 contract, including interest due and accrued, ~~and increased by any~~  
36 ~~existing additional amounts credited by the company to the~~  
37 ~~contract.~~

38 (2) The net considerations for a given contract year used to  
39 define the minimum nonforfeiture amount shall be an amount ~~not~~  
40 ~~less than zero and shall be equal to the corresponding~~ equal to 87.5

1 *percent of the gross considerations credited to the contract during*  
2 *that contract year less an annual contract charge of thirty dollars*  
3 *(\$30) and less a collection charge of one dollar and twenty-five*  
4 *cents (\$1.25) per consideration credited to the contract during that*  
5 *contract year. The percentages of net considerations shall be 65*  
6 *percent of the net consideration for the first contract year and 87½*  
7 *percent of the net considerations for the second and later contract*  
8 *years. Notwithstanding the provisions of the preceding sentence,*  
9 *the percentage shall be 65 percent of the portion of the total net*  
10 *consideration for any renewal contract year which exceeds by not*  
11 *more than two times the sum of those portions of the net*  
12 *considerations in all prior contract years for which the percentage*  
13 *was 65 percent.*

14 *(b) With respect to contracts providing for fixed scheduled*  
15 *considerations, minimum nonforfeiture amounts shall be*  
16 *calculated on the assumption that considerations are paid annually*  
17 *in advance and shall be defined as for contracts with flexible*  
18 *considerations which are paid annually with two exceptions:*

19 *(1) The portion of the net consideration for the first contract*  
20 *year to be accumulated shall be the sum of 65 percent of the net*  
21 *consideration for the first contract year plus 22½ percent of the*  
22 *excess of the net consideration for the first contract year over the*  
23 *lesser of the net considerations for the second and third contract*  
24 *years.*

25 *(2) The annual contract charge shall be the lesser of thirty*  
26 *dollars (\$30) or 10 percent of the gross annual consideration.*

27 *(c) With respect to contracts providing for a single*  
28 *consideration, minimum nonforfeiture amounts shall be defined as*  
29 *for contracts with flexible considerations except that the*  
30 *percentage of net consideration used to determine the minimum*  
31 *nonforfeiture amount shall be equal to 90 percent and the net*  
32 *consideration shall be the gross consideration less a contract*  
33 *charge of seventy-five dollars (\$75). The interest rate used in*  
34 *determining minimum nonforfeiture amounts shall be the lesser of*  
35 *the following rates:*

36 *(1) Three percent per annum.*

37 *(2) The rate resulting from reducing by 125 basis points the*  
38 *five-year Constant Maturity Treasury Rate reported by the Federal*  
39 *Reserve as of a specific date, or averaged over a specific period,*  
40 *rounded to the nearest 1/20 of one percent, provided that the rate*

1 is specified in the contract no more than 15 months prior to the  
2 contract issue date or redetermination date under paragraph (4),  
3 and that the resulting rate is not less than one percent. This interest  
4 rate shall apply for an initial period and may be redetermined for  
5 additional periods. The redetermination date, basis, and period,  
6 if any, shall be stated in the contract. The basis is the date, or  
7 average over a specified period, that produces the value of the  
8 five-year Constant Maturity Treasury Rate to be used at each  
9 redetermination date.

10 (c) During the period or term that a contract provides  
11 substantive participation in an equity indexed benefit, it may  
12 increase the reduction described in paragraph (2) of subdivision  
13 (b) by up to an additional 100 basis points to reflect the value of  
14 the equity index benefit. The present value at the contract issue  
15 date, and at each redetermination date thereafter, of the additional  
16 reduction shall not exceed the market value of the benefit. The  
17 commissioner may require a demonstration that the present value  
18 of the additional reduction does not exceed the market value of the  
19 benefit. Lacking a demonstration that is acceptable to the  
20 commissioner, the commissioner may disallow or limit the  
21 additional reduction.

22 (d) The commissioner may adopt regulations to implement the  
23 provisions of paragraph (c) and to provide for further adjustments  
24 to the calculation of minimum nonforfeiture amounts for contracts  
25 that provide substantive participation in an equity index benefit  
26 and for other contracts with respect to which the commissioner  
27 determines adjustments are justified.

28 SEC. 3. Section 10168.92 is added to the Insurance Code, to  
29 read:

30 10168.92. The commissioner may adopt regulations to  
31 implement the provisions of this article.

32 SEC. 4. Section 10168.11 is added to the Insurance Code, to  
33 read:

34 10168.11. The amendments to this article made by the act  
35 adding this section shall become operative on January 1, 2006. A  
36 company may elect to apply these amended provisions to annuity  
37 contracts on a contract-form-by-contract-form basis on and after  
38 the effective date of these amendments and before their operative  
39 date.

40 ~~amended to read:~~

1     ~~10168.7.—Any contract that does not provide cash surrender~~  
2     ~~benefits or does not provide death benefits at least equal to the~~  
3     ~~minimum nonforfeiture amount prior to the commencement of~~  
4     ~~any annuity payments shall include a statement in a prominent~~  
5     ~~place in the contract that those benefits are not provided.~~

O

